

By: Martinez Fischer

H.B. No. 1982

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of dangerous and vicious dogs; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 822.001(3), Health and Safety Code, is amended to read as follows:

(3) "Dangerous dog," "dog," "owner," ~~and~~ "secure enclosure," and "vicious dog" have the meanings assigned by Section 822.041.

SECTION 2. Section 822.003(f), Health and Safety Code, is amended to read as follows:

(f) The court may not order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:

(1) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:

(A) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and

(B) the injured person was at least 15 ~~eight~~ years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(2) the dog was not being used for the protection of a

1 person or person's property, the attack, bite, or mauling occurred  
2 in an enclosure in which the dog was being kept, and the injured  
3 person was at least 15 [~~eight~~] years of age and was trespassing in  
4 the enclosure when the attack, bite, or mauling occurred;

5 (3) the attack, bite, or mauling occurred during an  
6 arrest or other action of a peace officer while the peace officer  
7 was using the dog for law enforcement purposes;

8 (4) the dog was defending a person from an assault or  
9 person's property from damage or theft by the injured person; or

10 (5) the injured person was younger than 15 [~~eight~~]  
11 years of age, the attack, bite, or mauling occurred in an enclosure  
12 in which the dog was being kept, and the enclosure was reasonably  
13 certain to keep a person younger than 15 [~~eight~~] years of age from  
14 entering.

15 SECTION 3. Sections 822.005, Health and Safety Code, is  
16 amended by amending Subsections (a) and (b) and adding Subsection  
17 (b-1) to read as follows:

18 (a) A person commits an offense if the person is the owner of  
19 a dog and the person:

20 (1) with criminal negligence, as defined by Section  
21 6.03, Penal Code, fails to secure the dog and the dog makes an  
22 unprovoked attack on another person that occurs at a location other  
23 than the owner's real property or in or on the owner's motor vehicle  
24 or boat and that causes serious bodily injury, as defined by Section  
25 1.07, Penal Code, or death to the other person; or

26 (2) knows the dog is a dangerous dog by learning in a  
27 manner described by Section 822.042(g) that the person is the owner

1 of a dangerous dog, or knows the dog is a vicious dog, and the  
2 dangerous or vicious dog makes an unprovoked attack on another  
3 person that occurs at a location other than a secure enclosure in  
4 which the dog is restrained in accordance with Subchapter D and that  
5 causes serious bodily injury, as defined by Section 822.001, or  
6 death to the other person.

7 (b) An offense under this section is a felony of the third  
8 degree [~~unless the attack causes death, in which event the offense~~  
9 ~~is a felony of the second degree~~].

10 (b-1) Notwithstanding Subsection (b), an offense under this  
11 section is a felony of the second degree if:

12 (1) the attack causes death;

13 (2) the victim of the attack is a person younger than  
14 15 years of age; or

15 (3) the victim of the attack is a person 65 years of  
16 age or older.

17 SECTION 4. The heading to Subchapter D, Chapter 822, Health  
18 and Safety Code, is amended to read as follows:

19 SUBCHAPTER D. DANGEROUS AND VICIOUS DOGS

20 SECTION 5. Section 822.041, Health and Safety Code, is  
21 amended by adding Subdivision (6) to read as follows:

22 (6) "Vicious dog" means a dog that:

23 (A) because of the dog's physical nature and  
24 vicious propensity is capable of inflicting serious bodily injury,  
25 as that term is defined by Section 822.001, or death to human beings  
26 and constitutes a danger to human life or property;

27 (B) without reasonable provocation has

1 habitually behaved within the enclosure in which the dog is kept in  
2 such a manner that the owner knows or should know that the animal is  
3 likely to attack or bite;

4 (C) commits unprovoked acts while in the  
5 enclosure in which the dog is kept, and those acts cause a person to  
6 reasonably believe that the dog will attack and cause bodily injury  
7 to that person; or

8 (D) acts in a highly aggressive manner while in  
9 the enclosure in which the dog is kept and appears to a reasonable  
10 person to be able to escape from the enclosure.

11 SECTION 6. The heading to Section 822.042, Health and  
12 Safety Code, is amended to read as follows:

13 Sec. 822.042. REQUIREMENTS FOR OWNER OF DANGEROUS OR  
14 VICIOUS DOG.

15 SECTION 7. Section 822.042, Health and Safety Code, is  
16 amended by amending Subsections (a), (b), (c), and (g) and adding  
17 Subsections (h) and (i) to read as follows:

18 (a) Not later than the 30th day after a person learns that  
19 the person is the owner of a dangerous or vicious dog, the person  
20 shall:

21 (1) register the dangerous or vicious dog with the  
22 animal control authority for the area in which the dog is kept;

23 (2) restrain the dangerous or vicious dog at all times  
24 on a leash in the immediate control of a person or in a secure  
25 enclosure;

26 (3) obtain liability insurance coverage or show  
27 financial responsibility in an amount of at least \$100,000 to cover

1 damages resulting from an attack by the dangerous or vicious dog  
2 causing bodily injury to a person and provide proof of the required  
3 liability insurance coverage or financial responsibility to the  
4 animal control authority for the area in which the dog is kept; and

5 (4) comply with an applicable municipal or county  
6 regulation, requirement, or restriction on dangerous or vicious  
7 dogs.

8 (b) The owner of a dangerous or vicious dog who does not  
9 comply with Subsection (a) shall deliver the dog to the animal  
10 control authority not later than the 30th day after the owner learns  
11 that the dog is a dangerous or vicious dog.

12 (c) If, on application of any person, a justice court,  
13 county court, or municipal court finds, after notice and hearing as  
14 provided by Section 822.0423, that the owner of a dangerous or  
15 vicious dog has failed to comply with Subsection (a) or (b), the  
16 court shall order the animal control authority to seize the dog and  
17 shall issue a warrant authorizing the seizure. The authority shall  
18 seize the dog or order its seizure and shall provide for the  
19 impoundment of the dog in secure and humane conditions.

20 (g) For purposes of this section, a person learns that the  
21 person is the owner of a dangerous or vicious dog when:

22 (1) the owner knows of an attack described in Section  
23 822.041(2)(A) or (B);

24 (2) the owner receives notice that a justice court,  
25 county court, or municipal court has found that the dog is a  
26 dangerous or vicious dog under Section 822.0423; [~~or~~]

27 (3) the owner is informed by the animal control

1 authority that the dog is a dangerous or vicious dog under Section  
2 822.0421; or

3 (4) the owner knows of or observes facts or actions  
4 described by Section 822.041(6).

5 (h) A person who is younger than 21 years of age may not be  
6 the owner of a dangerous or vicious dog.

7 (i) An owner of a dangerous or vicious dog may not allow the  
8 dog to enter a public park or the grounds of a primary or secondary  
9 school, regardless of whether the dog is on a leash.

10 SECTION 8. Section 822.0421, Health and Safety Code, is  
11 amended to read as follows:

12 Sec. 822.0421. DETERMINATION THAT DOG IS DANGEROUS OR  
13 VICIOUS. (a) If a person reports an incident described by Section  
14 822.041(2) or a fact or action described by Section 822.041(6), the  
15 animal control authority may investigate the fact, action, or  
16 incident. If, after receiving the sworn statements of any  
17 witnesses, the animal control authority determines the dog is a  
18 dangerous or vicious dog, it shall notify the owner of that fact.

19 (b) An owner, not later than the 15th day after the date the  
20 owner is notified that a dog owned by the owner is a dangerous or  
21 vicious dog, may appeal the determination of the animal control  
22 authority to a justice, county, or municipal court of competent  
23 jurisdiction. An owner may appeal the decision of the justice,  
24 county, or municipal court in the same manner as appeal for other  
25 cases from the justice, county, or municipal court.

26 SECTION 9. Sections 822.0422(b), (d), and (e), Health and  
27 Safety Code, are amended to read as follows:

1           (b) A person may report an incident described by Section  
2 822.041(2) or a fact or action described by Section 822.041(6) to a  
3 municipal court, a justice court, or a county court. The owner of  
4 the dog shall deliver the dog to the animal control authority not  
5 later than the fifth day after the date on which the owner receives  
6 notice that the report has been filed. The authority may provide  
7 for the impoundment of the dog in secure and humane conditions until  
8 the court orders the disposition of the dog.

9           (d) The court shall determine, after notice and hearing as  
10 provided in Section 822.0423, whether the dog is a dangerous or  
11 vicious dog.

12           (e) The court, after determining that the dog is a dangerous  
13 or vicious dog, may order the animal control authority to continue  
14 to impound the dangerous or vicious dog in secure and humane  
15 conditions until the court orders disposition of the dog under  
16 Section 822.042 and the dog is returned to the owner or destroyed.

17           SECTION 10. Section 822.0423(a), Health and Safety Code, is  
18 amended to read as follows:

19           (a) The court, on receiving a report of an incident, fact,  
20 or action under Section 822.0422 or on application under Section  
21 822.042(c), shall set a time for a hearing to determine whether the  
22 dog is a dangerous or vicious dog or whether the owner of the dog has  
23 complied with Section 822.042. The hearing must be held not later  
24 than the 10th day after the date on which the dog is seized or  
25 delivered.

26           SECTION 11. Subchapter D, Chapter 822, Health and Safety  
27 Code, is amended by adding Section 822.0424 to read as follows:

1       Sec. 822.0424. RESPONSIBILITY OF DOG OWNER IN CERTAIN  
2 MUNICIPALITIES. (a) This section applies only to a city with a  
3 population of more than one million.

4       (b) A person who owns or keeps custody or control of a dog  
5 weighing 40 pounds or more shall ensure that the dog, at any time  
6 the dog is not on a leash in the immediate control of a person, is  
7 kept inside a residence or in a secure enclosure on the premises  
8 where the dog is kept.

9       SECTION 12. Section 822.043, Health and Safety Code, is  
10 amended to read as follows:

11       Sec. 822.043. REGISTRATION. (a) An animal control  
12 authority for the area in which the dog is kept shall annually  
13 register a dangerous or vicious dog if the owner:

14           (1) presents proof of:

15                   (A) liability insurance or financial  
16 responsibility, as required by Section 822.042;

17                   (B) current rabies vaccination of the dangerous  
18 or vicious dog; and

19                   (C) the secure enclosure in which the dangerous  
20 or vicious dog will be kept; and

21           (2) pays an annual registration fee of \$50.

22       (b) The animal control authority shall provide to the owner  
23 registering a dangerous or vicious dog a registration tag. The  
24 owner must place the tag on the dog's collar.

25       (c) If an owner of a registered dangerous or vicious dog  
26 sells or moves the dog to a new address, the owner, not later than  
27 the 14th day after the date of the sale or move, shall notify the

1 animal control authority for the area in which the new address is  
2 located. On presentation by the current owner of the dangerous or  
3 vicious dog's prior registration tag and payment of a fee of \$25,  
4 the animal control authority shall issue a new registration tag to  
5 be placed on the dangerous or vicious dog's collar.

6 (d) An owner of a registered dangerous or vicious dog shall  
7 notify the office in which the dangerous or vicious dog was  
8 registered of any attacks the dangerous or vicious dog makes on  
9 people.

10 SECTION 13. The heading to Section 822.044, Health and  
11 Safety Code, is amended to read as follows:

12 Sec. 822.044. ATTACK BY DANGEROUS OR VICIOUS DOG.

13 SECTION 14. Sections 822.044(a) and (c), Health and Safety  
14 Code, are amended to read as follows:

15 (a) A person commits an offense if the person is the owner of  
16 a dangerous or vicious dog and the dog makes an unprovoked attack on  
17 another person outside the dog's enclosure and causes bodily injury  
18 to the other person.

19 (c) If a person is found guilty of an offense under this  
20 section, the court may order the dangerous or vicious dog destroyed  
21 by a person listed in Section 822.004.

22 SECTION 15. Section 822.045, Health and Safety Code, is  
23 amended by amending Subsection (a) and adding Subsection (a-1) to  
24 read as follows:

25 (a) A person who owns or keeps custody or control of a  
26 dangerous or vicious dog commits an offense if the person fails to  
27 comply with Section 822.042 or Section 822.0422(b) or an applicable

1 municipal or county regulation relating to dangerous or vicious  
2 dogs.

3 (a-1) A person who owns or keeps custody or control of a dog  
4 weighing 40 pounds or more commits an offense if the person violates  
5 Section 822.0424.

6 SECTION 16. Section 822.047, Health and Safety Code, is  
7 amended to read as follows:

8 Sec. 822.047. LOCAL REGULATION OF DANGEROUS OR VICIOUS  
9 DOGS. A county or municipality may place additional requirements  
10 or restrictions on dangerous or vicious dogs if the requirements or  
11 restrictions:

12 (1) are not specific to one breed or several breeds of  
13 dogs; and

14 (2) are more stringent than restrictions provided by  
15 this subchapter.

16 SECTION 17. (a) The change in law made by this Act applies  
17 only to an offense committed on or after the effective date of this  
18 Act. For purposes of this section, an offense is committed before  
19 the effective date of this Act if any element of the offense occurs  
20 before that date.

21 (b) An offense committed before the effective date of this  
22 Act is covered by the law in effect when the offense was committed,  
23 and the former law is continued in effect for that purpose.

24 SECTION 18. This Act takes effect September 1, 2009.